

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS BABB,

Petitioner,

v.

Case No. 09-11804

GREG McQUIGGIN,

HONORABLE AVERN COHN

Respondent.

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**ORDER DISMISSING MOTION FOR CERTIFICATE OF PROBABLE CAUSE AND  
APPOINTMENT OF COUNSEL**

This is a habeas case under 28 U.S.C. § 2254. On May 11, 2009, Petitioner Thomas Babb, proceeding pro se, filed a petition for a writ of habeas corpus claiming that he is incarcerated in violation of his constitutional rights. On May 14, 2009, the Court entered an order directing Respondent to file a response by November 19, 2009. On November 12, 2009, Respondent filed a response to the petition. The Rule 5 materials were later filed on November 20, 2009.

On December 3, 2009, Petitioner filed the instant “motion for a certificate of probable cause and appointment of counsel” and a notice of appeal. In his papers, Petitioner says he wants to appeal the denial of his petition on November 12, 2009. Petitioner is mistaken. As noted above, on November 12, 2009, Respondent filed a response. The Court has not entered any dispositive order. As such, there is no order

from which to appeal. Accordingly, Petitioner's motion is DISMISSED.

SO ORDERED.

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: December 7, 2009

I hereby certify that a copy of the foregoing document was mailed to Thomas Babb, #665335, Chippewa Correctional Facility, 4269 W. M-80, Kincheloe, MI 49784 and the attorneys of record on this date, December 7, 2009, by electronic and/or ordinary mail.

s/ Julie Owens  
Case Manager, (313) 234-5160